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August 29, 2011



VIA ECF

Hon. Nicholas G. Garaufis
United States District Court for
the Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: United States, et al. v. City of New York
Civ. Action No. 07-cv-2067 (NGG) (RLM)

Dear Judge Garaufis:

Plaintiffs-Intervenors submit this letter to respond briefly to the City's letter of this morning concerning the admission of Defendant's Exhibits 21, 22 and 23, which are Columbia University reports commissioned by the FDNY. The City apparently questions the foundation for these documents, even though the City included them in its own pretrial list of exhibits on July 22, 2011. (Dkt. # 686). The City acknowledges that these exhibits were created with the active participation of the FDNY (as the contents of the exhibits demonstrates), and there should be no question as to their authenticity since they were in the possession of the FDNY before being pre-marked by the Law Department and provided to Plaintiffs-Intervenors just days before trial. The presence or absence of testimony from Professor Eimicke does not bear upon the admissibility of these exhibits. Finally, not only has the Court already received these exhibits into evidence by virtue of its Order dated August 19, 2011 (Dkt. # 722 at 3), it had already received Defendant's Exhibit 21 into evidence on August 2, 2011 (Tr. at 285). The City did not object to the admission of Exhibit 21 at the time, other than to note that it was undated.

Very truly yours,

Dana E. Lossia

TO: All Counsel Via ECF Only.

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